

THE EFFECTIVE DATE OF THIS ORDINANCE IS APRIL 10, 2008

ORDINANCE # 08-07-483

AN ORDINANCE BY THE BOARD OF COUNTY COMMISSIONERS FOR  
FREDERICK COUNTY, MARYLAND TO AMEND AND REVISE §1-19-289 OF THE  
CODE AND TO REPEAL §1-19-396 OF THE CODE

§1. Definitions. - In this Ordinance, the following terms shall have the  
meanings indicated:

"BOCC" shall mean the Board of County Commissioners for Frederick County,  
Maryland.

"Code" shall mean the Frederick County Code, 2004.

"Planning Commission" shall mean the Frederick County Planning  
Commission created by §1-13-16 of the Code.

"Vested rights" shall have its judicially determined meaning.

"Zoning Administrator" shall have the meaning set forth in §1-19-4(B) of the  
Zoning Ordinance.

"Zoning Ordinance" shall mean the Frederick County Zoning Ordinance,  
codified as Chapter 1-19 of the Code. All future Code references in this Ordinance  
are to the Zoning Ordinance.

§2. Background. - Nursing homes are presently a principal permitted use by  
special exception in the Agricultural zoning district, subject to site development plan  
approval.<sup>1</sup> The Zoning Ordinance contains standards for nursing homes located in  
the Agricultural zoning district.<sup>2</sup>

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<sup>1</sup> See the Institutional use table set forth in §1-19-289.

<sup>2</sup> §1-19-396.

The BOCC desires to remove nursing homes as a principal permitted use in the Agricultural zoning district by amending and revising the provisions of the Institutional use table that pertain to nursing homes set forth in §1-19-289 and by repealing §1-19-396.

After the effective date of this Ordinance, nursing homes will no longer be a permitted use in the Agricultural zoning district. Established nursing homes located in the Agricultural zoning district as of the effective date of this Ordinance, if any there be, will become non-conforming uses subject to the provisions of §1-19-119.

### §3. Procedural Requirements.

On September 27, 2007 the BOCC initiated this Ordinance by adopting Resolution # 07- 61.

Pursuant to §1-19-62(A), the Zoning Administrator referred this Ordinance to the Planning Commission for a recommendation. The Zoning Administrator caused notices of the Planning Commission and BOCC public hearings, along with a summary of the of this Ordinance, to be published in a newspaper of general circulation in the County in accordance with the provisions of §1-19-63(B) & (C).

The Planning Commission held its advertised public hearing on this Ordinance on the 28th day of November, 2007, at which time the public had a reasonable opportunity to comment on the proposed revisions and amendments.

The BOCC held its advertised public hearing on the proposed revisions and amendments on the 18th day of December, 2007, at which time the public had a reasonable opportunity to comment on the proposed revisions and amendments.

NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS FOR FREDERICK COUNTY, MARYLAND THAT:

§4. Amendment & Revision of §1-19-289. – The provisions of the Institutional use table set forth in §1-19-289 which pertain to nursing homes are amended and revised to read as follows:

**“§ 1-19-289. USE REGULATIONS FOR SPECIFIC ZONING DISTRICTS.**

P Principal permitted use subject to design regulations

PS Principal permitted use subject to site development plan approval. See §§ 1-19-411 through 1-19-413

E Principal permitted use as a special exception with site development plan approval. See §§ 1-19-376 and following

T Permitted as temporary use as a special exception. See § 1-19-213

X Permitted as temporary use only. See § 1-19-213

SW Solid Waste Floating Zone

A blank indicates that the use is not permitted under any situation

	Zoning Districts													
Uses	RC	A	R1	R3	R5	R8	R12	R16	VC	HS	GC	ORI	LI	GI
Institutional														
Nursing Home		[E]	PS	PS	PS	PS	PS	PS	PS					

<sup>3</sup>

<sup>3</sup> Text [within brackets and stricken through] represents matter deleted from the existing Ordinance. Deletion of the “E” is the only change to §1-19-289 made by this Ordinance. The rest of §1-19-289 remains unchanged.

§5. Repeal of §1-19-396. – Section 1-19-396 is repealed and shall henceforth read as follows:

**“§ 1-19-396. [NURSING HOMES IN A DISTRICTS.**

~~Nursing homes in the A District shall comply with the following standards.~~

~~(A) Minimum lot area per bed of 1,675 square feet and a minimum lot size of 3 acres.~~

~~(B) Minimum lot width of 200 feet.~~

~~(C) Minimum front yard setback of 40 feet.~~

~~(D) Minimum side yard setback of 50 feet.~~

~~(E) Minimum rear yard setback of 50 feet.~~

~~(F) Maximum height of 30 feet.~~

~~(G) Must front on a paved public road with a minimum Comprehensive Plan classification of a collector street.~~

~~(H) Must be located in building(s) which contain(s) on-site fire prevention, detection, alarm, notification, and suppression systems which meet or exceed current applicable federal, state and local standards and regulations. The Board of Appeals shall also determine that adequate emergency vehicular access/response can be provided to the proposed site.] **REPEALED.**<sup>4</sup>~~

§7. Effective Date. - This Ordinance shall be effective on the 10th day of April, 2008.

§8. Extension of Time to Act. – Subsection 1-19-62(c) provides:

The Board of County Commissioners shall act within 45 days on a zoning text amendment after receiving the recommendation of the Planning Commission unless the time is extended by the Board.

The Board of County Commissioners hereby extends the time provided in subsection 1-19-62(c) until the effective date of this Ordinance.

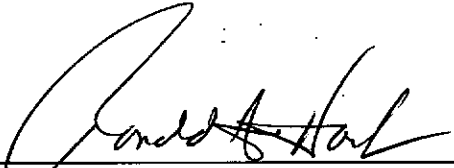
<sup>4</sup> Text [within brackets and stricken through] represents matter deleted from the existing Ordinance. CAPITALIZED AND UNDERLINED TEXT represents matter added to the existing Ordinance.

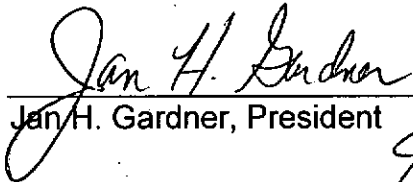
The undersigned hereby certifies that the Board of County Commissioners for Frederick County, Maryland approved and adopted the foregoing Ordinance on the 10th day of April, 2008.

ATTEST:

BOARD OF COUNTY  
COMMISSIONERS  
FOR FREDERICK COUNTY,  
MARYLAND

By:

  
\_\_\_\_\_  
Ronald A. Hart,  
County Manager

  
\_\_\_\_\_  
Jan H. Gardner, President 